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ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

UNITED STATES OF AMERICA, Plaintiff, vs. GARY DUKE CARLSON, Defendant.	CR 18-15-BLG-SPW OFFER OF PROOF
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The United States of America, represented by Thomas K. Godfrey, Assistant United States Attorney for the District of Montana, files its offer of proof in anticipation of the change of plea hearing set in this case on June 20, 2018.

THE CHARGES

The defendant, Gary Duke Carlson, is charged by indictment with assault of a dating partner by strangulation, in violation of 18 U.S.C. §§ 1153 and 113(a)(8) – count I; and assault resulting in substantial bodily injury to a dating partner, in violation of 18 U.S.C. §§ 1153 and 113(a)(7) – count II.

PLEA AGREEMENT

The defendant will plead guilty to the indictment. Resolution of the case without a plea agreement is the most favorable resolution for the defendant. *See Missouri v. Frye*, 566 U.S. 134, 145-46 (2012).

ELEMENTS OF THE CHARGES TO WHICH HE WILL PLEAD

In order for the defendant to be found guilty of the charge of assault of a dating partner by strangulation, as charged in count I of the indictment, the United States must prove each of the following elements beyond a reasonable doubt:

First, the defendant is an Indian person;

Second, the assault occurred in Indian Country;

Third, the defendant assaulted the victim by strangling the victim; and

Fourth, the victim was a dating partner of the defendant at the time.

In order for the defendant to be found guilty of the charge of assault resulting in substantial bodily injury to a dating partner, as charged in count II of

the indictment, the United States must prove each of the following elements beyond a reasonable doubt:

First, the defendant is an Indian person;

Second, the assault occurred in Indian Country;

Third, the defendant intentionally struck and wounded the victim;

Fourth, as a result, the victim suffered substantial bodily injury; and

Fifth, the victim was a dating partner of the defendant at the time.

PENALTY

The offense of assault of a dating partner by strangulation, as charged in count I of the indictment, carries a maximum punishment of ten years imprisonment, a \$250,000 fine, three years of supervised release, and a \$100 special assessment.

The offense of assault resulting in substantial bodily injury to a dating partner, as charged in count II of the indictment, carries a maximum punishment of five years imprisonment, a \$250,000 fine, three years of supervised release, and a \$100 special assessment.

ANTICIPATED EVIDENCE

If this case were tried in United States District Court, the United States would prove the following:

On June 24, 2017, C.N. reported to the emergency department of the Indian Health Services hospital in Crow Agency, Montana, stating that she had been assaulted and strangled by her dating partner, Gary Duke Carlson. Carlson was released from Montana state custody in the beginning of May 2017. During his time in custody, he had repeatedly accused C.N. of being unfaithful while he was incarcerated. C.N. moved to live with Carlson and his mother in Pryor around May 15, 2017.

Towards the end of May 2017, Carlson became physically abusive with her. She stated that Carlson accused her of having sex with his uncle and C.N. stated she did not. She initially left the bed to go to the bathroom and then returned. She tried to leave the bed after more accusations and he pulled her back into the bed and began to strangle her. She felt as if she was going to lose consciousness, and stated her airflow was impeded.

On June 22, 2017, he again accused her of seeing someone else. She attempted to leave but he convinced her to come back to bed. After she attempted to leave again he led her in place and head-butted her in the face and hit her with his hands. Her right rear molar was chipped and she sustained bruising to her extremities, face, and neck. She also had a laceration on her nose.

On June 28, 2017, BIA interviewed the Defendant. He stated he did not hit his wife however, he did push her and when he did she fell into the dresser or the door.

Both C.N. and Carlson are registered members of the Crow Tribe.

DATED this 15th day of June, 2018.

KURT G. ALME
United States Attorney

/s/ Thomas K. Godfrey
THOMAS K. GODFREY
Assistant U.S. Attorney